Rev. Rul. 65-81, 1965-1 C.B. 225 [Obsoleted by 82-148]

In determining whether an organization exempt from Federal income tax under section 501(c)(9) of the Internal Revenue Code of 1954 meets the 85-percent limitation requirement of section 501(c)(9) for a particular taxable year, amounts received in that year as rebates on insurance premiums from a mutual insurance company with which the organization carries insurance on its members will not be taken into consideration provided such amounts are held and used by the organization for the sole purpose of paying life, sick, accident, or other benefits to members or their dependents and meeting expenses.

I.T. 2705, C.B. XII-2, 67 (1933), distinguished.

Advice has been requested whether an organization exempt from Federal income tax under section 501(c)(9) of the Internal Revenue Code of 1954 is entitled to continued exemption under the circumstances described herein.

During the taxable year in question a voluntary employees' beneficiary association received a so-called dividend, which in fact represented a return of excess premium charges, from a mutual insurance company with which the association carries insurance for its members. The association holds and uses this dividend solely to pay life, sick, accident, and other benefits to its members or their dependents and to meet expenses. The only question presented is whether in the above circumstances the dividend must be taken into consideration in determining whether the 85-percent limitation requirement for exemption under section 501(c)(9) has been met by the association for the taxable year in question.

Section 501(c)(9) of the Code provides, in part, for the exemption of voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if 85 percent or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses.

So-called dividends, which in fact represent a rebate of premiums paid in excess of actual cost of the insurance carried, received by a voluntary employees' beneficiary association from a mutual insurance company with which it carries group insurance on its members may be excluded from the determination whether the association meets the 85-percent limitation requirement under section 501(c)(9) of the Code so long as all such dividends are held and used by the association to pay life, sick, accident, or other benefits to its members or their dependents and to meet expenses. In such circumstances the dividends are considered to represent a return of amounts originally collected by the association from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses. Such amounts have already been included in the association's income for purposes of determining whether it meets the 85-percent limitation requirement. Compare Rev. Rul. 64-258, C.B. 1964-2, 134; Rev. Rul. 58-380, C.B. 1958-2, 14; G.C.M. 10798, C.B. XI-2, 58 (1932).

Since, in the instant case, the amounts received from the mutual insurance company represent a return of excess premium charges and they are held and used by the organization solely for the payment of life, sick, accident, or other benefits and to meet expenses, it is held that their receipt by the association does not affect its qualification for continued exemption from Federal income tax as an organization described in section 501(c)(9) of the Code.

The facts in this case are distinguishable from those underlying the conclusion reached in I.T. 2705, C.B. XII-2, 67 (1933), wherein the item involved was interest income received by the association in question.